

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RESONANT SYSTEMS, INC.

Plaintiff,

No.

V.

FUN FACTORY USA, INC.

Defendant.

JURY TRIAL DEMANDED

JURY TRIAL DE

JURY TRIAL DEMANDED

This is an action for patent infringement in which Resonant Systems, Inc. (“Resonant Systems” or “Plaintiff”) makes the following allegations against Fun Factory USA, Inc. (“Fun Factory” or “Defendant”).

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of United States Patent Nos. 8,093,767 (the "767 Patent) and 8,860,337 (the "337 Patent" ("the Patents-in-Suit").

PARTIES

2. Plaintiff Resonant Systems is a Washington corporation with its principal place of business at 1406 NW 53rd, Suite 2a, Seattle, WA 98107.

3. On information and belief, Fun Factory is a California corporation with its principal place of business at 3605 West Pacific Avenue, Burbank, CA 91505. On information and belief, Fun Factory may be served with process by serving its registered agent Petra Korn at 475 Washington Blvd., Marina Del Ray, CA 90292.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant, including because Defendant has minimum contacts within the State of Washington; Defendant has purposely availed itself of the privileges of conducting business in the State of Washington; Defendant regularly conducts business within the State of Washington; and Resonant Systems' cause of action arises directly from Defendant's business contacts and other activities in the State of Washington.

6. More specifically, Defendant, directly and/or through its intermediaries, makes, distributes, imports, offers for sale, sells, advertises and/or uses, linear vibration modules and/or systems, including the Accused Products identified herein, that practice the claimed systems of the Patents-in-Suit in the State of Washington. Defendant has committed patent infringement in the State of Washington and solicits customers in the State of Washington. Defendant has paying customers who are residents of the State of Washington and who purchase and use Defendant's infringing products in the State of Washington. Further, Defendant has an interactive website that is accessible from the State of Washington.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed acts of patent infringement in this district.

8. More specifically, Defendant, directly and/or through its intermediaries, makes, distributes, imports, offers for sale, sells, advertises and/or uses, linear vibration modules and/or systems including the Accused Products identified herein, that practice the claimed systems of the Patents-in-Suit in the State of Washington. Defendant has committed patent infringement in the State of Washington and solicits customers in the State of Washington. Defendant has paying customers who are residents of the State of Washington and who purchase and/or use Defendant's infringing products in the State of Washington.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 8,093,767

9. Plaintiff is the owner by assignment of the '767 Patent entitled "Linear-Resonant Vibration Module" – including all rights to recover for past and future acts of infringement. The '767 Patent was issued on January 10, 2012. A true and correct copy of the '767 Patent is attached as Exhibit A.

10. Resonant Systems, Inc. has been in existence since December 2010. Robin Elenga, one of the inventors listed on the '767 Patent, is the President and Chief Executive Officer of Resonant Systems.

11. On information and belief, Defendant has been and now is directly infringing the ‘767 Patent in this judicial district and elsewhere in the United States. Infringement by Defendant includes, without limitation, making, distributing, importing, offering for sale, selling, advertising, and/or using, without limitation, linear vibration modules and systems, infringing at least claim 1 of the ‘767 Patent. Plaintiff is informed and believes that

1 Defendant infringes by and through at least its manufacture, distribution, offer to sell, sale,
2 and/or use of the products comprising at least the following Fun Factory Accused Products:
3 Stronic Eins (SKU's: 4000136 and 4000166), see
4 <https://us.funfactory.com/en/pulsators/stronic-eins/>; Stronic Zwei (SKU's: 4000208 and
5 4000258), see <https://us.funfactory.com/en/pulsators/stronic-zwei>; and Stronic Drei (SKU's:
6 4000374 and 4000364), see <https://us.funfactory.com/en/pulsators/stronic-drei>. Defendant is
7 thus liable for infringement of the '767 Patent under 35 U.S.C. § 271.
8

9 12. Further, Defendant's infringement is willful as upon information and belief,
10 Defendant has had knowledge of the '767 Patent since at least April 2013.

11 13. Each of Defendant's aforesaid activities has been without authority and/or
12 license from Resonant Systems.

13 14. Resonant Systems is entitled to recover from Defendant the damages
15 sustained by Resonant Systems as a result of Defendant's wrongful acts in an amount subject
16 to proof at trial, which by law cannot be less than a reasonable royalty, together with interest
17 and costs as fixed by this court under 35 U.S.C. § 284.

18 **COUNT II**
19 **INFRINGEMENT OF U.S. PATENT NO. 8,860,337**

20 15. Plaintiff is the owner by assignment of the '337 Patent entitled "Linear
21 Vibration Modules and Linear-Resonant Vibration Modules" – including all rights to recover
22 for past and future acts of infringement. The '337 Patent was issued on October 14, 2014. A
23 true and correct copy of the '337 Patent is attached as Exhibit B.

24 16. Resonant Systems, Inc. has been in existence since December 2010. Robin
25 Elenga, one of the inventors listed on the '337 Patent, is the President and Chief Executive
26 Officer of Resonant Systems.

17. On information and belief, Defendant has been and now is directly infringing
 2 the '337 Patent in this judicial district and elsewhere in the United States. Infringement by
 3 Defendant includes, without limitation, making, distributing, importing, offering for sale,
 4 selling, advertising, and/or using, without limitation, linear vibration modules and systems,
 5 infringing at least claim 4 of the '337 Patent. Plaintiff is informed and believes that
 6 Defendant infringes by and through at least its manufacture, distribution, offer to sell, sale,
 7 and/or use of the products comprising at least the following Fun Factory Accused Products:
 8
 9 Stronic Eins (SKU's: 4000136 and 4000166), see
 10 <https://us.funfactory.com/en/pulsators/stronic-eins/>; Stronic Zwei (SKU's: 4000208 and
 11 4000258), see <https://us.funfactory.com/en/pulsators/stronic-zwei>; and Stronic Drei (SKU's:
 12 4000374 and 4000364), see <https://us.funfactory.com/en/pulsators/stronic-drei>. Defendant is
 13 thus liable for infringement of the '337 Patent under 35 U.S.C. § 271.
 14

15. Each of Defendant's aforesaid activities has been without authority and/or
 16 license from Resonant Systems.

17. Resonant Systems is entitled to recover from Defendant the damages
 18 sustained by Resonant Systems as a result of Defendant's wrongful acts in an amount subject
 19 to proof at trial, which by law cannot be less than a reasonable royalty, together with interest
 20 and costs as fixed by this court under 35 U.S.C. § 284.
 21

22 **PRAAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

24 1. In favor of Plaintiff that Defendant has infringed the '767 and '337 Patents;
 25
 26

2. Requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '767 and '337 Patents as provided under 35 U.S.C. § 284;

3. That this Court declare this case to be an exceptional case and award Plaintiff reasonable attorneys' fees and costs in accordance with U.S.C. § 285; and

4. Granting Plaintiff any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted this 14th day of January, 2015

Todd Y. Brandt*
STEVENS HENRY
P.O. Box 3427
Longview, Texas 75606
Telephone: (903) 753-6760
Facsimile: (903) 753-6761
todd@stevenslove.com

(*Pro Hac Vice application pending)

s/Daniel D. DeLue
Daniel D. DeLue, WSBA #29357
DELUE LAW PLLC
600 Stewart Street, Suite 1115
Seattle, WA 98101
Telephone: (206) 508-3815
Facsimile: (206) 508-3817
ddd@d3law.com

Attorneys for Resonant Systems, Inc.